

AMENDED IN ASSEMBLY AUGUST 7, 2014

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AMENDED IN SENATE MAY 27, 2014

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SENATE BILL

No. 831

Introduced by Senator Hill

(Principal coauthor: Senator Beall)

(Principal coauthors: Assembly Members Garcia and Levine)

January 6, 2014

An act to amend Sections 87207, 89506, 89513, 89515, 89516, and 89517 of, and to add Sections 87106 and 89515.5 to, the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

SB 831, as amended, Hill. Political Reform Act of 1974.

(1) The Political Reform Act of 1974 provides for the comprehensive regulation of campaign financing and related matters, including the reporting of campaign contributions, as defined. Under existing law, a payment made at the behest of a candidate for elective office is considered a contribution unless the payment is made for purposes unrelated to the candidate's candidacy, and a payment is presumed to be unrelated to a candidate's candidacy if it is made principally for legislative, governmental, or charitable purposes.

The bill would prohibit an elected officer from requesting that a payment be made, or a person from making a payment, at the behest of the elected officer to a nonprofit organization that *is exempt from taxation under Section 501(c)(4) of the Internal Revenue Code and that the elected officer knows or has reason to know is owned or controlled by that officer or specified family members of the officer, except as specified*. The bill would provide that an elected officer is deemed to have complied with that requirement if the Commission determines that the elected officer has made a reasonable effort to ascertain whether a nonprofit organization is owned or controlled by any of the specified persons.

(2) The act prohibits specified officers from receiving gifts, as defined, in excess of \$440 in value from a single source in a calendar year. The act exempts gift payments for the actual costs of specified types of travel that are reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy, from the annual limit on the value of gifts from a single source.

This bill would require a nonprofit organization that pays for these types of travel *for an elected state officer or local elected officeholder* to disclose the names of donors responsible for funding the payments, as specified. The bill would require a person who receives a gift of a travel payment to report the travel destination on his or her statement of economic interests.

(3) The act requires that contributions deposited into a campaign account be held in trust for expenses associated with the election of the candidate or for expenses associated with holding office. The act provides that an expenditure to seek office is within the lawful execution of this trust if it is reasonably related to a political purpose and an expenditure associated with holding office is within the lawful execution of this trust if it is reasonably related to a legislative or governmental purpose. Expenditures that confer a substantial personal benefit must be directly related to a political, legislative, or governmental purpose. The act authorizes the use of campaign funds to make donations or loans to bona fide charitable, educational, civic, religious, or similar tax-exempt nonprofit organizations. The act imposes additional limitations on certain expenditures, including those relating to automotive expenses, travel expenses, tickets for entertainment or sporting events, personal gifts, and real property expenses.

The bill would prohibit an elected officer or a committee controlled by the elected officer from making an expenditure of campaign funds to a nonprofit organization *that is exempt from taxation under Section 501(c)(4) of the Internal Revenue Code and that is* owned or controlled by the officer or specified family members of the officer, as specified.

This bill would also limit the expenditure of campaign funds for other purposes, as specified, including personal vacations, payments for membership dues for a country club, health club, or other recreational facility, specified tuition payments, utility payments, vehicle use that is not directly related to an election campaign, and certain gifts for specified family members of a candidate, elected officer, or other individuals with the authority to approve the expenditure of campaign funds held by a committee.

(4) A violation of the act's provisions is punishable as a misdemeanor. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(5) The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes upon a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 87106 is added to the Government Code,
2 to read:
3 87106. (a) An elected officer shall not request that a payment
4 be made, and a person shall not make a payment at the behest of
5 the elected officer, as described in Section 82015, to a nonprofit
6 organization that the elected officer knows or has reason to know
7 is owned or controlled by that officer or a family member of the
8 elected officer.

(b) An elected officer is deemed to have complied with the requirements of subdivision (a) if the Commission determines that the elected officer has made a reasonable effort to ascertain whether a nonprofit organization is owned or controlled by any individual described in subdivision (a).

(c) For purposes of this section, a nonprofit organization is owned or controlled by an elected officer or family member of the elected officer if the elected officer or family member of the elected officer, or a member of that person's immediate family, is a director, officer, partner, or trustee of, or holds any position of management with, the nonprofit organization, and is paid for his or her services.

(d) For purposes of this section, ~~“family”~~ *the following terms have the following meanings:*

(1) *“Family member of the elected officer” means the spouse, child, sibling, or parent of an elected officer.*

(2) *“Nonprofit organization” means an organization that is exempt from taxation under Section 501(c)(4) of the Internal Revenue Code.*

(e) This section shall not apply to behested payments made to a nonprofit organization that is formed for the purpose of coordinating or performing disaster relief services.

SEC. 2. Section 87207 of the Government Code is amended to read:

87207. (a) If income is required to be reported under this article, the statement shall contain, except as provided in subdivision (b):

(1) The name and address of each source of income aggregating five hundred dollars (\$500) or more in value, or fifty dollars (\$50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source.

(2) A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was at least five hundred dollars (\$500) but did not exceed one thousand dollars (\$1,000), whether it was in excess of one thousand dollars (\$1,000) but was not greater than ten thousand dollars (\$10,000), whether it was greater than ten thousand dollars (\$10,000) but not greater than one hundred thousand dollars (\$100,000), or whether it was greater than one hundred thousand dollars (\$100,000).

1 (3) A description of the consideration, if any, for which the
2 income was received.

3 (4) In the case of a gift, the amount and the date on which the
4 gift was received, and the travel destination for purposes of a gift
5 that is a travel payment, advance, or reimbursement.

6 (5) In the case of a loan, the annual interest rate, the security,
7 if any, given for the loan, and the term of the loan.

8 (b) If the filer's pro rata share of income to a business entity,
9 including income to a sole proprietorship, is required to be reported
10 under this article, the statement shall contain:

11 (1) The name, address, and a general description of the business
12 activity of the business entity.

13 (2) The name of every person from whom the business entity
14 received payments if the filer's pro rata share of gross receipts
15 from that person was equal to or greater than ten thousand dollars
16 (\$10,000) during a calendar year.

17 (c) If a payment, including an advance or reimbursement, for
18 travel is required to be reported pursuant to this section, it may be
19 reported on a separate travel reimbursement schedule which shall
20 be included in the filer's statement of economic interest. A filer
21 who chooses not to use the travel schedule shall disclose payments
22 for travel as a gift, unless it is clear from all surrounding
23 circumstances that the services provided were equal to or greater
24 in value than the payments for the travel, in which case the travel
25 may be reported as income.

26 SEC. 3. Section 89506 of the Government Code is amended
27 to read:

28 89506. (a) Payments, advances, or reimbursements for travel,
29 including actual transportation and related lodging and subsistence
30 that is reasonably related to a legislative or governmental purpose,
31 or to an issue of state, national, or international public policy, are
32 not prohibited or limited by this chapter if either of the following
33 applies:

34 (1) The travel is in connection with a speech given by the elected
35 state officer, local elected officeholder, candidate for elective state
36 office or local elective office, an individual specified in Section
37 87200, member of a state board or commission, or designated
38 employee of a state or local government agency, the lodging and
39 subsistence expenses are limited to the day immediately preceding,

1 the day of, and the day immediately following the speech, and the
2 travel is within the United States.

3 (2) The travel is provided by a government, a governmental
4 agency, a foreign government, a governmental authority, a bona
5 fide public or private educational institution, as defined in Section
6 203 of the Revenue and Taxation Code, a nonprofit organization
7 that is exempt from taxation under Section 501(c)(3) of the Internal
8 Revenue Code, or by a person domiciled outside the United States
9 who substantially satisfies the requirements for tax-exempt status
10 under Section 501(c)(3) of the Internal Revenue Code.

11 (b) Gifts of travel not described in subdivision (a) are subject
12 to the limits in Section 89503.

13 (c) Subdivision (a) applies only to travel that is reported on the
14 recipient's statement of economic interests.

15 (d) For purposes of this section, a gift of travel does not include
16 any of the following:

17 (1) Travel that is paid for from campaign funds, as permitted
18 by Article 4 (commencing with Section 89510), or that is a
19 contribution.

20 (2) Travel that is provided by the agency of a local elected
21 officeholder, an elected state officer, member of a state board or
22 commission, an individual specified in Section 87200, or a
23 designated employee.

24 (3) Travel that is reasonably necessary in connection with a
25 bona fide business, trade, or profession and that satisfies the criteria
26 for federal income tax deduction for business expenses in Sections
27 162 and 274 of the Internal Revenue Code, unless the sole or
28 predominant activity of the business, trade, or profession is making
29 speeches.

30 (4) Travel that is excluded from the definition of a gift by any
31 other provision of this title.

32 (e) This section does not apply to payments, advances, or
33 reimbursements for travel and related lodging and subsistence
34 permitted or limited by Section 170.9 of the Code of Civil
35 Procedure.

36 (f) (1) A nonprofit organization that makes payments, advances,
37 or reimbursements that total more than ten thousand dollars
38 (\$10,000) in a calendar year, or that total more than five thousand
39 dollars (\$5,000) in a calendar year for a single person, for travel
40 *by an elected state officer or local elected officeholder as described*

1 in subdivision (a) shall disclose to the Commission the names of
2 the donors responsible for funding those payments, advances, or
3 reimbursements. The disclosure of donor names shall be limited
4 to donors who donated one thousand dollars (\$1,000) or more to
5 the nonprofit organization in a calendar year and who knew or had
6 reason to know that the donation would be used for a payment,
7 advance, or reimbursement for travel *by an elected state officer*
8 *or local elected officeholder* as described in subdivision (a).

9 (2) A donor knows or has reason to know that his or her donation
10 will be used in the manner described in paragraph (1) under any
11 of the following conditions:

12 (A) The donor directed the nonprofit organization to use the
13 donation to make a payment, advance, or reimbursement for travel
14 *by an elected state officer or local elected officeholder* as described
15 in subdivision (a).

16 (B) The donor made the donation in response to a message or
17 solicitation for donations for the stated purpose of making a
18 payment, advance, or reimbursement for travel *by an elected state*
19 *officer or local elected officeholder* as described in subdivision
20 (a).

21 ~~(C) The nonprofit organization made payments, advances, or~~
22 ~~reimbursements that totaled more than ten thousand dollars~~
23 ~~(\$10,000) in a calendar year, or that totaled more than five thousand~~
24 ~~dollars (\$5,000) in a calendar year for a single person, for travel~~
25 ~~described in subdivision (a) in the current calendar year or any of~~
26 ~~the immediately preceding four calendar years. The nonprofit~~
27 ~~organization shall disclose donors identified pursuant to this~~
28 ~~subparagraph only to the extent that donations made pursuant to~~
29 ~~subparagraphs (A) and (B) are less than the amount of the~~
30 ~~payments, advances, or reimbursements made by the organization.~~
31 ~~The nonprofit organization shall not report a donor identified~~
32 ~~pursuant to this subparagraph if the organization has evidence~~
33 ~~indicating that the donor restricted or otherwise did not intend the~~
34 ~~donation to be used for a payment, advance, or reimbursement for~~
35 ~~travel described in subdivision (a).~~

36 (C) *The donor, or an agent, employee, or representative of the*
37 *donor, accompanied an elected state officer or local elected*
38 *officeholder for any portion of travel as described in subdivision*
39 *(a).*

1 (3) For purposes of Sections 87103, 87207, and 89503, a
2 nonprofit organization that makes payments, advances, or
3 reimbursements for travel by an elected state officer or local
4 elected officeholder as described in subdivision (a) is the source
5 of the gift unless the nonprofit organization is acting as an
6 intermediary or agent of the donor. If the nonprofit organization
7 is acting as an intermediary or agent of the donor, all of the
8 following apply:

9 (A) The donor to the nonprofit organization is the source of the
10 gift.

11 (B) The donor shall be identified as a financial interest under
12 Section 87103.

13 (C) The gift shall be reported as required by Section 87207.

14 (D) The gift shall be subject to the limitations on gifts specified
15 in Section 89503.

16 SEC. 4. Section 89513 of the Government Code is amended
17 to read:

18 89513. This section governs the use of campaign funds for the
19 specific expenditures set forth in this section. It is the intent of the
20 Legislature that this section guide the interpretation of the standard
21 imposed by Section 89512 as applied to other expenditures not
22 specifically set forth in this section.

23 (a) (1) Campaign funds shall not be used to pay or reimburse
24 a candidate, elected officer, or any individual or individuals with
25 authority to approve the expenditure of campaign funds held by a
26 committee, or employees or staff of the committee or the elected
27 officer's governmental agency, for travel expenses and necessary
28 accommodations, except when these expenditures are directly
29 related to a political, legislative, or governmental purpose.

30 (2) For purposes of this section, payments or reimbursements
31 for travel and necessary accommodations shall be considered
32 directly related to a political, legislative, or governmental purpose
33 if the payments would meet standards similar to the standards of
34 the Internal Revenue Service pursuant to Sections 162 and 274 of
35 the Internal Revenue Code for deductions of travel expenses under
36 the federal income tax law.

37 (3) For purposes of this section, payments or reimbursement
38 for travel by the household of a candidate or elected officer when
39 traveling to the same destination in order to accompany the

1 candidate or elected officer shall be considered for the same
2 purpose as the candidate's or elected officer's travel.

3 (4) If campaign funds are used to pay or reimburse a candidate,
4 elected officer, his or her representative, or a member of the
5 candidate's household for travel expenses and necessary
6 accommodations, the expenditure shall be reported as required by
7 Section 84211.

8 (5) If campaign funds are used to pay or reimburse for travel
9 expenses and necessary accommodations, any mileage credit that
10 is earned or awarded pursuant to an airline bonus mileage program
11 shall be deemed personally earned by or awarded to the individual
12 traveler. Neither the earning or awarding of mileage credit, nor
13 the redeeming of credit for actual travel, shall be subject to
14 reporting pursuant to Section 84211.

15 (6) Campaign funds shall not be used to make a payment for a
16 personal vacation for a candidate; elected officer; immediate family
17 member of a candidate or elected officer; or an officer, director,
18 employee, or member of the staff of a candidate, elected officer,
19 or committee.

20 (b) (1) Campaign funds shall not be used to pay for or reimburse
21 the cost of professional services unless the services are directly
22 related to a political, legislative, or governmental purpose.

23 (2) Expenditures by a committee to pay for professional services
24 reasonably required by the committee to assist it in the performance
25 of its administrative functions are directly related to a political,
26 legislative, or governmental purpose.

27 (3) Campaign funds shall not be used to pay health-related
28 expenses for a candidate, elected officer, or any individual or
29 individuals with authority to approve the expenditure of campaign
30 funds held by a committee, or members of his or her household.
31 "Health-related expenses" includes, but is not limited to,
32 examinations by physicians, dentists, psychiatrists, psychologists,
33 or counselors; expenses for medications, treatments, or medical
34 equipment; and expenses for hospitalization and special dietary
35 foods. However, campaign funds may be used to pay employer
36 costs of health care benefits of a bona fide employee or independent
37 contractor of the committee.

38 (4) Campaign funds shall not be used to make a payment for
39 membership dues for a country club, health club, or other
40 recreational facility.

(5) Campaign funds shall not be used to make tuition payments, unless the payments are directly related to a political, legislative, or governmental purpose.

(c) Campaign funds shall not be used to pay or reimburse fines, penalties, judgments, or settlements, except those resulting from either of the following:

(1) Parking citations incurred in the performance of an activity that was directly related to a political, legislative, or governmental purpose.

(2) Any other action for which payment of attorney's fees from contributions would be permitted pursuant to this title.

(d) Campaign funds shall not be used to purchase clothing to be worn by a candidate or elected officer.

(e) (1) Except where otherwise prohibited by law, campaign funds may be used to purchase or reimburse for the costs of purchase of tickets to political fundraising events for the attendance of a candidate, elected officer, or his or her immediate family, or an officer, director, employee, or staff of the committee or the elected officer's governmental agency.

(2) Campaign funds shall not be used to pay for or reimburse for the costs of ~~admission to a sporting event, concert, theater, or other form of entertainment~~ *tickets for entertainment or sporting events* for the candidate, elected officer, or members of his or her immediate family, or an officer, director, employee, or staff of the committee, unless their attendance at the event is directly related to ~~the election campaign of the candidate or elected officer.~~ *a political, legislative, or governmental purpose.*

(3) The purchase of tickets for entertainment or sporting events for the benefit of persons other than the candidate, elected officer, or his or her immediate family are governed by subdivision (f).

(f) (1) Campaign funds shall not be used to make a gift to a spouse, child, sibling, or parent of a candidate, elected officer, or other individual with authority to approve the expenditure of campaign funds held by a committee, except for a gift of nominal value that is substantially similar to a gift made to other persons and that is directly related to a political, legislative, or governmental purpose. Campaign funds shall not be used to make personal gifts to any other person not described in this paragraph unless the gift is directly related to a political, legislative, or

1 governmental purpose. The refund of a campaign contribution
2 does not constitute the making of a gift.

3 (2) This section does not prohibit the use of campaign funds to
4 reimburse or otherwise compensate a public employee for services
5 rendered to a candidate or committee while on vacation, leave, or
6 otherwise outside of compensated public time.

7 (3) An election victory celebration or similar campaign event,
8 or gifts with a total cumulative value of less than two hundred fifty
9 dollars (\$250) in a single year made to an individual employee, a
10 committee worker, or an employee of the elected officer's agency,
11 are considered to be directly related to a political, legislative, or
12 governmental purpose. For purposes of this paragraph, a gift to a
13 member of a person's immediate family shall be deemed to be a
14 gift to that person.

15 (g) Campaign funds shall not be used to make loans other than
16 to organizations pursuant to Section 89515, or, unless otherwise
17 prohibited, to a candidate for elective office, political party, or
18 committee.

19 SEC. 5. Section 89515 of the Government Code is amended
20 to read:

21 89515. Campaign funds may be used to make donations or
22 loans to bona fide charitable, educational, civic, religious, or similar
23 tax-exempt, nonprofit organizations, if no substantial part of the
24 proceeds will have a material financial effect on the candidate,
25 campaign treasurer, or any individual or individuals with authority
26 to approve the expenditure of campaign funds held by a committee,
27 or member of his or her immediate family, and if the donation or
28 loan bears a reasonable relation to a political, legislative, or
29 governmental purpose, except as prohibited by Section 89515.5.

30 SEC. 6. Section 89515.5 is added to the Government Code, to
31 read:

32 89515.5. (a) An expenditure of campaign funds by an elected
33 officer or committee controlled by the elected officer to a nonprofit
34 organization that the elected officer knows or has reason to know
35 is owned or controlled by the elected officer or a family member
36 of the elected officer is deemed to serve the primary purpose of
37 conferring a personal financial benefit on the recipient and is
38 prohibited as being unrelated to a political, legislative, or
39 governmental purpose and inconsistent with the trust imposed by
40 Section 89510.

1 (b) An elected officer is deemed to have complied with the
2 requirements of subdivision (a) if the Commission determines that
3 the elected officer has made a reasonable effort to ascertain whether
4 a nonprofit organization is owned or controlled by any individual
5 described in subdivision (a).

6 (c) For purposes of this section, a nonprofit organization is
7 owned or controlled by an elected officer or family member of the
8 elected officer if the elected officer or family member of the elected
9 officer, or a member of that person's immediate family, is a
10 director, officer, partner, or trustee of, or holds any position of
11 management with, the nonprofit organization and is paid for his
12 or her services.

13 (d) For purposes of this section, ~~“family”~~ *the following terms*
14 *have the following meanings:*

15 (1) *“Family member of the elected officer”* means the spouse,
16 child, sibling, or parent of an elected officer.

17 (2) *“Nonprofit organization”* means an organization that is
18 exempt from taxation under Section 501(c)(4) of the Internal
19 Revenue Code.

20 SEC. 7. Section 89516 of the Government Code is amended
21 to read:

22 89516. Notwithstanding Sections 89512 and 89513, this section
23 governs the use of campaign funds for vehicle expenses.

24 (a) Campaign funds shall not be used to purchase a vehicle
25 unless both of the following apply:

26 (1) Title to the vehicle is held by the committee and not the
27 candidate, elected officer, campaign treasurer, or any other
28 individual or individuals with authority to approve the expenditure
29 of campaign funds held by a committee, or a member of his or her
30 immediate family.

31 (2) The use of the vehicle is directly related to an election
32 campaign.

33 (b) Campaign funds shall not be used to lease a vehicle unless
34 both of the following apply:

35 (1) The lessee is the committee, or a state or local government
36 agency, and not the candidate, elected officer, or a member of his
37 or her immediate family; or the lessor is a state or local government
38 agency.

39 (2) The use of the vehicle is directly related to an election
40 campaign.

1 (c) Campaign funds may be used to pay for or reimburse the
2 operating costs, including, but not limited to, insurance,
3 maintenance, and repairs, for any vehicle for which campaign
4 funds may be spent pursuant to this section.

5 (d) Campaign funds may be used to reimburse a candidate,
6 elected officer, his or her immediate family, or any individual or
7 individuals with authority to approve the expenditure of campaign
8 funds held by a committee, or an employee or member of the staff
9 of the committee or of the elected officer's governmental agency,
10 for the use of his or her vehicle at the rate approved by the Internal
11 Revenue Service pursuant to Section 162 of the Internal Revenue
12 Code in connection with deductible mileage expenses under the
13 federal income tax law, if both of the following requirements are
14 met:

15 (1) The vehicle use for which reimbursement is sought is directly
16 related to an election campaign.

17 (2) The specific purpose and mileage in connection with each
18 expenditure is documented in a manner approved by the Internal
19 Revenue Service in connection with deductible mileage expenses.

20 (e) For purposes of this section, use of a vehicle is considered
21 to be directly related to an election campaign as long as its use for
22 other purposes is only incidental to its use for an election campaign.

23 SEC. 8. Section 89517 of the Government Code is amended
24 to read:

25 89517. (a) Campaign funds shall not be used for payment or
26 reimbursement for the lease of real property, for a utility bill for
27 real property, or for the purchase, lease, or refurbishment of any
28 appliance or equipment, where the lessee or sublessor is, or the
29 legal title resides in, in whole or in part, a candidate, elected officer,
30 campaign treasurer, or any individual or individuals with authority
31 to approve the expenditure of campaign funds, or member of his
32 or her immediate family.

33 (b) Campaign funds shall not be used to purchase real property.
34 Except as prohibited by subdivision (a), campaign funds may be
35 used to lease real property for up to one year at a time if the use
36 of that property is directly related to political, legislative, or
37 governmental purposes and the lessee or sublessor is not, or the
38 legal title does not reside in, in whole or in part, a candidate, elected
39 officer, campaign treasurer, or any individual or individuals with

1 authority to approve the expenditure of campaign funds, or a
2 member of his or her immediate family.

3 (c) For purposes of this section, real property, appliance, or
4 equipment is considered to be directly related to a political,
5 legislative, or governmental purpose if its use for other purposes
6 is only incidental to its use for political, legislative, or
7 governmental purposes and the lessee or sublessor of the real
8 property is not, or the legal title for the real property does not reside
9 in, in whole or in part, a candidate, elected officer, campaign
10 treasurer, or any individual or individuals with authority to approve
11 the expenditure of campaign funds, or a member of his or her
12 immediate family.

13 SEC. 9. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.

22 SEC. 10. The Legislature finds and declares that this bill
23 furthers the purposes of the Political Reform Act of 1974 within
24 the meaning of subdivision (a) of Section 81012 of the Government
25 Code.